

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

FLORENCE DARLING,

Plaintiff,

v.

Case Number 07-12048-BC
Honorable Thomas L. Ludington

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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**ORDER GRANTING PLAINTIFF'S APPLICATION
FOR ATTORNEY'S FEES AND COSTS**

On May 10, 2007, Plaintiff Florence Darling ("Plaintiff") filed a complaint before this Court challenging the denial of her application for disability benefits by Defendant Commissioner of Social Security ("Defendant"). Previously, the parties filed cross-motions for summary judgment, which were referred to Magistrate Judge Charles E. Binder pursuant to 28 U.S.C. § 636(b)(1). On August 12, 2008, the Court adopted the report and recommendation granting Plaintiff's motion for summary judgment and remanded the complaint for further proceedings before Defendant. *See* dkt. # 31.

On November 21, 2008, Plaintiff moved for attorney's fees pursuant to 28 U.S.C. § 2412(a) & (d), which permits the Court to award costs and fees to the prevailing party. While the motion indicates that the action is still pending before Defendant, Plaintiff is considered to have prevailed because the Court remanded the complaint. *See Shalala v. Schaefer*, 509 U.S. 292, 300-01 (1993). Plaintiff requests \$3,990.50 in fees and costs. Defendant's response indicates that it does not object to the award of fees and costs in that amount.

Accordingly, it is **ORDERED** that Plaintiff's application for attorney's fees [Dkt. # 32] is **GRANTED**. Plaintiff is awarded \$3,990.50 in attorney's fees and costs to be paid in accordance with the procedures set forth in 28 U.S.C. §§ 2412(c)(1) & 2414.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: December 4, 2008

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on December 4, 2008

s/Tracy A. Jacobs
TRACY A. JACOBS